

CARLSMITH BALL LLP  
JOHN D. OSBORN  
VINCENT J. SEMAN  
Carlsmith Building, Capitol Hill  
P.O. Box 5241  
Saipan, MP 96950-5241  
Tel No. 670.322.3455  
Attorneys for Plaintiff  
Seattle Refrigeration Company

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

SEATTLE REFRIGERATION COMPANY,  
Plaintiff,  
vs.  
CRYSTAL SEAS-CNMI, INC.,  
Defendant.

MC 08-00027

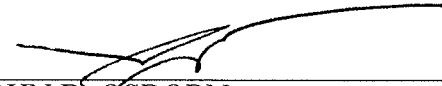
PETITIONER SEATTLE  
REFRIGERATION COMPANY'S  
APPLICATION FOR ISSUANCE OF  
WRIT OF EXECUTION;  
MEMORANDUM IN SUPPORT OF  
APPLICATION; DECLARATION OF  
VINCENT J. SEMAN; EXHIBITS A – B

COMES NOW Plaintiff SEATTLE REFRIGERATION COMPANY, by and through its attorneys, Carlsmith Ball LLP, and hereby petitions this Honorable Court to grant its Application for Issuance of Writ of Execution against the property of Respondent CRYSTAL SEAS-CNMI, INC.

This Petition is supported by the Memorandum of Points and Authorities, Declaration and Exhibits attached hereto, and the pleadings filed herein.

CARLSMITH BALL LLP

DATED: Saipan, MP, June 5, 2008.

  
\_\_\_\_\_  
JOHN D. OSBORN  
VINCENT J. SEMAN  
Attorneys for Plaintiff  
Seattle Refrigeration Company

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

By this Application for Issuance of Writ of Execution, Petitioner Seattle Refrigeration Company ("Petitioner") seeks the issuance of a writ of execution against the property of Respondent Crystal Seas-CNMI, Inc. ("Respondent "). Petitioner has obtained a Default Judgment against Respondent in the U.S. District Court for the Western District of Washington at Seattle. Petitioner seeks this Court's authority to enforce the money judgment against Respondent here in the Commonwealth of the Northern Mariana Islands ("CNMI") pursuant to FRCP Rule 69.

**II. RELEVANT FACTS**

1. On or about January 29, 2008, under Case No. C08-0141, Petitioner filed a breach of contract action in the U.S. District Court for the Western District of Washington at Seattle (the "Seattle District Court") in connection with the breach of a commercial lease.

2. On or about April 11, 2008, Respondent having failed to appear or otherwise respond to the complaint within the time prescribed by the Federal Rules of Civil Procedure, the Seattle District Court entered an Order of Default in favor of Petitioner and against Respondent.

3. On or about May 15, 2008, the Seattle District Court granted an Order for Entry of Default Judgment and Default Judgment in favor of Petitioner and against Respondent in the principal amount of \$81,201.47, prejudgment interest in the amount of \$11,893.23, attorney fees in the amount of \$5,000.00; costs in the amount of \$366.25, and post-judgment in the amount of 1.94% per anum (the " Judgment"). A certified copy of the Judgment was recorded with this Court as Document No. MC08-00027 on May 29, 2008. A copy of the Judgment as filed with this Court is attached hereto as Exhibit A.

4. To date, Respondent has not paid any portion of the Judgment. Thus, the entire sum of the Judgment remains due and payable.

1 **III. ARGUMENT**

2 A money judgment is enforced by a writ of execution, unless the court directs otherwise.  
3 FRCP 69(a). In obtaining a writ of execution, the procedure must accord with the procedure of  
4 the state where the court is located, but a federal statute governs to the extent it applies." *Id.*

5 Under CNMI law, a party recovering a money judgment may request the court to issue a  
6 writ of execution against the debtor. 7 CMC § 4201. Upon the court issuing a writ of execution,  
7 the person duly authorized receiving the writ shall levy or cause the Director of Public Safety to  
8 levy execution by demanding payment and/or seizing property if payment is not made. 7 CMC  
9 Section 4204. In this case, because Respondent is a CNMI corporation, the Seattle District Court  
10 lacks jurisdiction to issue a writ of execution against Respondent's property.


11 A money judgment entered by any district court may be registered by filing a certified  
12 copy of such judgment in the other district court after the judgment has become final. 28 U.S.C.  
13 § 1963. Petitioner has filed such Judgment with this Court. *See* Exhibit A. A judgment that has  
14 been registered has the same effect as the original judgment and may be enforced as would any  
15 other judgment under FRCP 69. Inasmuch as Respondent's property is located in the CNMI,  
16 Petitioner seeks the issuance by this Court of a writ of execution against such property to satisfy  
17 the Judgment. A copy of Petitioner's proposed form of Writ of Execution is attached hereto as  
18 Exhibit B.

19 **IV. CONCLUSION**

20 Based on foregoing, Petitioner respectfully requests that the Court grant its Application  
21 for Issuance of Writ of Execution.  
22

23  
24 CARLSMITH BALL LLP

25 DATED: Saipan, MP, June 5, 2008

26  
27   
28 JOHN D. OSBORN  
VINCENT J. SEMAN  
Attorneys for Plaintiff  
Seattle Refrigeration Company

CARLSMITH BALL LLP  
JOHN D. OSBORN  
VINCENT J. SEMAN  
Carlsmith Building, Capitol Hill  
P.O. Box 5241  
Saipan, MP 96950-5241  
Tel No. 670.322.3455  
Attorneys for Plaintiff  
Seattle Refrigeration Company

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

SEATTLE REFRIGERATION COMPANY,

MC 08-00027

Plaintiff,

vs.

CRYSTAL SEAS-CNMI, INC.,

Defendant.

PETITIONER SEATTLE  
REFRIGERATION COMPANY 'S  
APPLICATION FOR ISSUANCE OF  
WRIT OF EXECUTION;  
MEMORANDUM IN SUPPORT OF  
APPLICATION; DECLARATION OF  
VINCENT J. SEMAN; EXHIBITS A – B;  
NOTICE OF HEARING OF  
APPLICATION AND CERTIFICATE OF  
SERVICE

**DECLARATION OF COUNSEL**

The undersigned, under penalty of law, declares as follows:

1. I am an attorney with Carlsmith Ball LLP, attorneys for Petitioner SEATTLE REFRIGERATION COMPANY ("Petitioner") in this action.
2. I am authorized and competent to testify to the matters set forth herein, and unless otherwise indicated, I make this declaration based upon personal knowledge.

1 3. On or about January 29, 2008, under Case No. C08-0141, Petitioner filed a breach of  
2 contract action in the U.S. District Court for the Western District of Washington at Seattle (the  
3 "Seattle District Court").

4 4. On or about April 11, 2008, Respondent having failed to appear or otherwise respond to  
5 the complaint within the time prescribed by the Federal Rules of Civil Procedure, the Seattle  
6 District Court entered an Order of Default in favor of Petitioner and against Respondent.

7 5. On or about May 15, 2008, the Seattle District Court granted an Order for Entry of  
8 Default Judgment and Default Judgment in favor of Petitioner and against Respondent in the  
9 principal amount of \$81,201.47, prejudgment interest in the amount of \$11,893.23, attorney fees  
10 in the amount of \$5,000.00; costs in the amount of \$366.25, and post-judgment in the amount of  
11 1.94% per annum (the "Judgment").

12 6. Attached as Exhibit A to Petitioner's Application for Issuance of Writ of Execution  
13 against the property of Respondent CRYSTAL SEAS-CNMI, INC. is a true and correct copy of  
14 the certified copy of the Judgment recorded with this Court as Document No. MC08-00027 on  
15 May 29, 2008.


16 7. To date, Respondent has not paid any portion of the Judgment. Thus, the entire sum of  
17 the Judgment remains due and payable. Thus, Petitioner seeks the issuance by this Court of a  
18 writ of execution against such property to satisfy the Judgment

19 8. Attached hereto as Exhibit B is Petitioner's proposed form of Writ of Execution.

20 I hereby declare under penalty of law that the foregoing is true and correct to the best of  
21 my knowledge.

22  
23 CARLSMITH BALL LLP

24  
25 DATED: Saipan, MP, June 5, 2008.

26  
27  
28  
  
\_\_\_\_\_  
VINCENT J. SEMAN  
Attorneys for Plaintiff  
Seattle Refrigeration Company

MC 08 - 00027

I hereby certify that the  
annexed instrument is a true  
and correct copy of the original  
on file in my office.

ATTEST: BRUCE RIFKIN  
Clerk, U.S. District Court  
Western District of Washington

By [Signature] Deputy Clerk

THE HONORABLE THOMAS S. ZILLY

COPY of  
Original Filed  
on this date

MAY 2 2008

Clerk

District Court  
For the Northern Mariana Islands

FILED

LODGED

For FILING  
RECEIVED

MAY 15 2008

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SEATTLE REFRIGERATION COMPANY, a  
Washington corporation,

Plaintiff,

v.

CRYSTAL SEAS-CNMI, INC., a corporation  
formed and operated under the laws of the  
Commonwealth of the Northern Marianas  
Islands,

Defendant.

NO. C08-141 TSZ

~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
ENTRY OF DEFAULT  
JUDGMENT AND DEFAULT  
JUDGMENT

ORDER

THE COURT, after reviewing Plaintiff Seattle Refrigeration Company's Motion for Order Granting Plaintiff's Motion for Entry of Default Judgment and Default Judgment, the Declarations of Tracy Abbott and Markos Scheer in support thereof and exhibits thereto and the records and pleadings filed herein, this Court finds that,

1. Defendant Crystal Seas-CNMI, Inc., was properly served with copies of the Summons and Complaint on February 8, 2008; see tab no. 5
2. Defendant has not appeared or filed an answer to Plaintiff's Complaint;

~~PROPOSED~~ ORDER GRANTING MOTION FOR  
DEFAULT AND DEFAULT JUDGMENT - 1

YOUR OFFICE

SECOND & SENECA BUILDING  
1191 SECOND AVENUE, SUITE 1901  
SEATTLE, WASHINGTON 98101  
Phone: (206) 224-9515 Fax: (206) 623-6923

EXHIBIT

A

tabbles

3. More than eighty (80) days have passed since the Summons and Complaint was served on Defendant;

4. The Clerk of this Court entered an order of Default against Defendant on April 11, 2008; *see docket no. 13*

5. Defendant is not an infant, incompetent person, or a person in the military service or otherwise exempted from default under the Soldiers' and Sailors' Civil Relief Act of 1940;

6. Plaintiff's claim is for a sum certain or may be made certain by calculation;

7. Plaintiff is due the amount of Eighty One Thousand Two Hundred One and 47/100 dollars (\$81,201.47.), as detailed in Plaintiff's Complaint and the documents filed with this Court;

8. Plaintiff is entitled to ~~simple~~ *prejudgment* interest in the amount of 18% per annum, from July 20, 2007, *to May 14, 2008,* ~~until all amounts, including accrued interest, costs and attorney fees are paid in full~~ pursuant to the terms of the Payment Agreement entered into by and between Plaintiff and Defendant;

9. Plaintiff is entitled to award of its costs and attorney fees as established by documents and agreements submitted to this Court by Plaintiff; and

10. Plaintiff is entitled to entry of Default Judgment.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

THAT Defendant is in default and this Court enters judgment in favor of Plaintiff Seattle Refrigeration Company in the principal amount of Eighty One Thousand Two Hundred One and 47/100 dollars (\$81,201.47);

THAT Plaintiff Seattle Refrigeration Company is awarded prejudgment interest in the amount of \$ 11,843.22

1 THAT Plaintiff Seattle Refrigeration Company is awarded of attorneys fees in the  
2 amount of \$ 5,000.<sup>00</sup>

3 THAT Plaintiff is awarded costs in the amount of \$ 366.<sup>25</sup>

4 THAT this judgment shall bear interest at 1.44 % per annum; and

5 THAT Plaintiff is entitled to post judgment attorney fees and costs.

6 JUDGMENT SUMMARY

7 PLAINTIFF:

Seattle Refrigeration Company  
1057 South Director Street  
Seattle Wa. 98108  
(206) 762-7740

9 Attorneys for Plaintiff:

Markos Scheer  
Young deNormandie, P.C.  
1191 Second Avenue, Suite 1901  
Seattle, WA 98101  
(206) 224-9818

12 DEFENDANT:

Crystal Seas-CNML, Inc  
Box CHRB 5408  
Saipan, MP 96950

14 Attorney for Defendant:

None

16 Damages:	\$ <u>81,201.47</u>
17 Prejudgment interest:	\$ <u>11,893.23</u>
18 Attorney fees:	\$ <u>5,000.<sup>00</sup></u>
19 Costs:	\$ <u>366.<sup>25</sup></u>
20 Total Judgment Amount:	\$ <u>98,460.<sup>95</sup></u>

21 Signed this 14<sup>th</sup> day of MAY, 2008

22   
23 HONORABLE THOMAS S. ZILLY  
24

1  
2 Presented by:

3 YOUNG deNORMANDIE, P.C.

4 s/ Markos Scheer

5 State Bar Number 29233

6 s/ Dean G. von Kallenbach

7 State Bar Number 12870

8 YOUNG deNORMANDIE, P.C.

9 1191 Second Avenue, Suite 1901

10 Seattle, WA 98101

11 Telephone: (206) 224-9818

12 Facsimile: (206) 623-6923

13 E-mail: [mscheer@ydnlaw.com](mailto:mscheer@ydnlaw.com)

14 Attorneys for Plaintiff Seattle Refrigeration Company

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
~~PROPOSED~~ ORDER GRANTING MOTION FOR  
DEFAULT AND DEFAULT JUDGMENT - 4

YOUNG deNORMANDIE  
SECOND & SENeca BUILDING  
1191 SECOND AVENUE, SUITE 1901  
SEATTLE, WASHINGTON 98101  
Phone: (206) 224-9818 Fax: (206) 623-6923

1 CARLSMITH BALL LLP  
2 JOHN D. OSBORN  
3 VINCENT J. SEMAN  
4 Carlsmith Building, Capitol Hill  
5 P.O. Box 5241  
6 Saipan, MP 96950-5241  
7 Tel No. 670.322.3455  
8  
9 Attorneys for Plaintiff  
10 Seattle Refrigeration Company  
11

12 UNITED STATES DISTRICT COURT  
13 FOR THE  
14 NORTHERN MARIANA ISLANDS

15 SEATTLE REFRIGERATION COMPANY, a  
16 Washington corporation,

17 Plaintiff,

18 vs.

19 CRYSTAL SEAS-CNMI, INC., a corporation  
20 formed and operated under the laws of the  
21 Commonwealth of the Northern Marianas  
22 Islands,

23 Defendant.

MC 08-00027

WRIT OF EXECUTION

24 TO: Commissioner of Public Safety  
25 Any Department of Public Safety Officer  
26 Any Officer of the Court

27 WHEREAS on May 15, 2008 the U.S. District Court for the Western District of  
28 Washington at Seattle rendered Judgment in the above-captioned matter in favor of SEATTLE  
REFRIGERATION COMPANY and against CRYSTAL SEAS-CNMI, INC. Said Judgment  
was entered in the principal amount of \$81,201.47, prejudgment interest in the amount of  
\$11,893.23, attorney fees in the amount of \$5,000.00; costs in the amount of \$366.25, and post-  
judgment in the amount of 1.94% per anum;



1 WHEREAS on May 29, 2008, a certified copy of the Judgment was recorded at with this  
2 Court as Document No. MC08-00027;

3 WHEREAS on June 4, 2008, SEATTLE REFRIGERATION COMPANY properly  
4 applied for a writ of execution with this court to enforce the Judgment favor of SEATTLE  
5 REFRIGERATION COMPANY and against CRYSTAL SEAS-CNMI, INC.; and

6 WHEREAS this Court has competent jurisdiction to enforce the Judgment favor of  
7 SEATTLE REFRIGERATION COMPANY and against CRYSTAL SEAS-CNMI, INC.;

8 NOW THEREFORE, any person to whom this Writ may be given are hereby  
9 commanded and authorized to satisfy said Judgment with interest and costs by levying execution  
10 upon Respondent's property not exempt from execution of the judgment debtor in order to satisfy  
11 the balance due on the Judgment in the principal amount of \$81,201.47, prejudgment interest in  
12 the amount of \$11,893.23, attorney fees in the amount of \$5,000.00; costs in the amount of  
13 \$366.25, and post-judgment in the amount of 1.94% per anum, together to which must be added  
14 the costs and commissions of the officer executing this Writ.

15  
16 DATED: \_\_\_\_\_, 2008.

17 \_\_\_\_\_  
18 ALEX R. MUNSON  
19 Chief Judge  
20  
21  
22  
23  
24  
25  
26  
27  
28